

109 FERC ¶ 61, 011
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suede G. Kelly.

Keyspan Generation, LLC

Docket Nos. ER04-112-000
ER04-112-001

ORDER ACCEPTING UNCONTESTED SETTLEMENT

(Issued October 1, 2004)

1. On August 2, 2004, KeySpan Generation, LLC (“KeySpan Generation”) on behalf of the Long Island Power Authority (“Authority”) and its operating subsidiary, Long Island Lighting Company d/b/a LIPA (collectively, “LIPA”) filed a Settlement Agreement with the Commission that resolves all issues in this proceeding, including disputes arising from KeySpan’s October 31, 2003 filing to revise the rates under its Power Supply Agreement with LIPA.
2. Comments on the Settlement Agreement were filed by Commission Trial Staff on August 23, 2004. No reply comments were filed. On September 8, 2004, the Settlement Judge certified the uncontested Offer of Settlement to the Commission.
3. The Settlement Agreement is in the public interest and is hereby approved. The Commission’s approval of the Settlement Agreement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

4. While KeySpan Generation LLC has filed designated rate schedule sheets to implement the settlement, the proposed designations do not comport with Order No. 614 (FERC Statutes and Regulations, Regulations Preambles July 1996-December 2000 ¶ 31,096 (2000)). Particularly, the service is indicated as being between Long Island Lighting Company, which is no longer in business, and the Long Island Power Authority, throughout the body of the Agreement. Therefore, KeySpan Generation, LLC is directed to file updated rate schedule sheets eliminating all superseded language within 30 days of the date of the order approving the settlement.¹

By the Commission. Commissioner Kelly dissenting in part with a separate statement attached.

(S E A L)

Linda Mitry,
Acting Secretary.

¹ See *Boston Edison Company*, order on reh'g, 98 FERC ¶ 61,292 (2002).

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KELLY, Commissioner, dissenting in part:

For the reasons I have previously set forth in Wisconsin Power & Light Co., 106 FERC ¶ 61,112 (2004), I do not believe that the Commission should depart from its precedent of not approving settlement provisions that preclude the Commission, acting sua sponte on behalf of a non-party, or pursuant to a complaint by a non-party, from investigating rates, terms and conditions under the “just and reasonable” standard of section 206 of the Federal Power Act at such times and under such circumstances as the Commission deems appropriate.

The settlement at issue provides, in relevant part, that “...any request to the Commission for a proposed change not contemplated under the PSA and Appendix A should be reviewed under the public interest standard.” To the extent that this language is meant to bind the Commission to a public interest standard even when it is acting sua sponte on behalf of a non-party, or pursuant to a complaint by a non-party, I respectfully dissent in part.

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